

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**JEAN T. THOMAS and
HEATH B. THOMAS,
on behalf of themselves and
all others similarly situated,**

Plaintiffs,

v.

**Civil Action No. 3:12-cv-00450-
JRS**

WITTSTADT TITLE & ESCROW COMPANY, LLC,

Defendant.

**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO
DISMISS**

COMES NOW the Plaintiff and for his response in opposition to the Defendant's Motion to Dismiss Class Claims and/or Strike Class Action Allegations (Docket No.11). Respectfully requests that the Court deny the motion to dismiss as moot. Defendant filed its Motion to Dismiss on August 21, 2012, as to the Complaint (Docket No. 1). On September 4, 2012, the Plaintiff filed an Amended Complaint as a matter of course within the time permitted under Rule 15(a)(1)(B). Because an Amended Complaint was filed as a matter of course, the original complaint is no longer operative. Therefore the Defendant's motion to dismiss the original complaint is moot. The Plaintiff respectfully requests that the court enter an order either denying the motion to dismiss or deeming the motion to dismiss to be moot.

Respectfully submitted,
Jean T. Thomas and
Heath B. Thomas,
*on behalf of themselves and
all others similarly situated,*

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of September, 2012, I will file the foregoing pleading electronically using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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